IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 31727 of 2007(B)

PETITIONER:

SHAJU KUMAR K.S., S/O.K.K.SREEDHARAN,
AGED 48, SHEELA SADANAM, NARAYAMPARA P.O.,
KATTAPPANA, IDUKKI DISTRICT.

BY ADV. SRI.T.B.THANKAPPAN
SMT.ALICE THOMAS
SRI. T.T.HARIKUMAR

RESPONDENTS:

1. THE CIRCLE INSPECTOR OF POLICE,
KATTAPPANA, IDUKKI DISTRICT

2. THE SUB-INSPECTOR OF POLICE,
KATTAPPANA POLICE STATION, KATTAPPANA,
IDUKKI DISTRICT.

3. STATE OF KERALA REPRESENTED BY THE
SECRETARY TO THE GOVERNMENT, HOME DEPARTMENT,
THIRUVANANTHAPURAM.

4. THE ASSISTANT LABOUR OFFICER,
UDUMBANCHOLA, NEDUMKANDAM, IDUKKI DISTRICT.

5. CITU HEADLOAD AND GENERAL WORKERS UNION,
NARIAMPARA REPRESENTED BY ITS CONVENOR
PRASAD.S.S.

6. INTUC HEADLOAD WORKERS UNION,
NARIAMPARA REPRESENTED BY ITS CONVENOR,
GOPI NEDUMANGATTU.

R1 TO 3 BY PUBLIC PROSECUTOR SHRI. P.A. SALIM
BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.A.S.SAJUSH PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P(C) 31727/07

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF LICENCE NO: B2-227/0708 DT. 24.5.2007

EXT.P2: -DO- OF THE PETITION DT. 17.10.2008 FILED BEFORE THE 1ST RESPONDENT

EXT.P3: -DO- DT. 17.10.2007 FILED BEFORE THE 2ND RESPONDENT

RESPONDENTS' EXTS:

EXT.R5A: TRUE COPY OF IDENTITY CARD 06/02/3767/02 ISSUED TO THE 5TH RESPONDENT

EXT.R5B: -DO- NO: 06/02/8895/05 ISSUED TO M. SHAJI

EXT.R5C: -DO- NO: 06-02-362/90 ISSUED TO K.T. SASI

EXT.R5D: -DO- OF IDENTITY CARD NO: 06/02/3768/02 ISSUED TO SIVANKUTTY

EXT. R5E: -DO- 06002-361/90 ISSUED TO T.C. SABU

jj /TRUE COPY/

P.S. TO JUDGE

K.BALAKRISHNAN NAIR &

K.P.BALACHANDRAN, JJ.

W.P.(C) NO. 31727 OF 2007-B

Dated 29th November, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner is running a hollow bricks unit at Nariampara, Kattappana, Idukki district. He has got the necessary licences from the statutory authorities to run it. The unit started production in May, 2007. The loading/unloading works in the said unit were being done by three of his workmen and also by his uncle. While so, the leaders of respondents 5 and 6 Unions came to the unit on 16.10.2007, claiming that the local workmen under them should be provided employment and they caused obstruction to the loading/unloading works in the unit. The petitioner on 17.10.2007 filed Exts.P2 and 3 representations before the Circle Inspector of Police and Sub Inspector of Police respectively, claiming protection to do the loading/unloading works and to remove the obstruction. No help was forthcoming. So, this writ petition is filed, seeking appropriate reliefs.

2. The 5th respondent has filed a counter affidavit, stating that eversince the unit started functioning in May, 2007 seven registered head load workers of the area were doing the loading work of hollow bricks and the concrete doors and windows manufactured there. The petitioner and the workmen were on cordial terms. The unloading of raw materials were being done by the workers of the unit. At the request of the petitioner, the rates of wages for loading the above said three items were also brought down by the workmen. There was no dispute or obstruction as alleged in the writ petition. Only when the copy of the writ petition was received, the said respondent came to know of the representations stated to be filed by the petitioner before the police. Thus, the 5th respondent denies all the allegations of the petitioner. It also points out that the petitioner's uncle is an old man and also a Gulf returnee. He is not doing any loading/unloading work in the unit. Therefore, in view of the said unfounded allegations in the writ petition, no protection may be ordered, it is prayed.

3. The petitioner has filed a reply affidavit, dealing with the averments in the counter affidavit. According to him, his regular workmen were doing the entire work of loading/unloading in the unit and because of the obstruction of the Trade Unions from 16.10.2007, the unit could not function. The work in the unit has come to a standstill and he is not able to

pay the instalments due to the Bank concerned, from which he has availed loan.

4. The learned Government Pleader, upon instructions, submitted that the Assistant Labour Officer was not able to ascertain as to who were doing the loading/unloading works in the petitioner's unit since May, 2007. The Assistant Labour Officer was told by the workmen represented by the Trade Unions that they were doing the loading/unloading works in the unit.

5. This is a labour dispute. In this case the police cannot enquire into the correctness of the claim of both sides and render protection to the side whose claim is found to be correct by them. In this jurisdiction, we are judicially reviewing the commissions and omissions of the police. Having regard to the facts of the case, we feel that the police have no role to play in this dispute. But, of course, if any cognizable offence is reported, the police have a duty to look into the same and take appropriate action. Having regard to the dispute concerning the basic facts, we are not able to grant any relief to the petitioner. Accordingly, the writ petition is dismissed without prejudice to the contentions of the petitioner and his right to move other

forums for appropriate reliefs.

K.BALAKRISHNAN NAIR, JUDGE.

K.P.BALACHANDRAN, JUDGE.

Nm/